



UNITED STATES CIVIL SERVICE COMMISSION

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WASHINGTON, D.C. 20415

FEBRUARY 11, 1966

YOUR REFERENCE

Mr. Phillip S. Hughes
Assistant Director for
Legislative Reference
Bureau of the Budget

Dear Mr. Hughes:

This is in reply to your request for the views of the Civil Service Commission on a draft CIA bill "To amend the Central Intelligence Agency Act of 1949, as amended, and for other purposes."

Section 1 of the draft bill proposes amendments to the Central Intelligence Agency Act of 1949, as amended, to provide employees and their dependents who serve abroad certain benefits with respect to rest and recuperation travel, travel during temporary duty assignments, hospitalization, and travel for medical treatment. This section would also authorize reemployment rights for employees of other agencies assigned for specific periods to the CIA, provide authority to settle claims against the agency, and authorize acceptance of gifts to the agency.

The Commission has no objection to the provisions of this section. However, in the interest of consistency with proposed paragraphs 4(5)(A) and 4(5)(C)(ii) we suggest that in 4(5)(C)(i) the phrase "is assigned abroad" be changed to "while on assignment abroad". As the Commission understands the intent of the proposed amendments to subsection 4(5) the object is to provide benefits to an employee or dependent whose illness or injury occurs while he is abroad.

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Section 2 proposes several perfecting amendments to the CIA Retirement and Disability System established pursuant to title II of Public Law 88-643, approved October 13, 1964, as follows:

Section 2(1) would amend the CIA plan to establish a "day-after" concept for the commencement of all retirement annuities in place of the "first-of-the-month-after" concept now in effect. This change corresponds in part to the change made in the CSR System by the amendatory act of September 6, 1960. The draft provisions accomplish this purpose for commencing dates of retirement annuities, but omit specific provisions for commencement of annuities to survivors other than children, and termination of annuities to retirees and survivors.

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child - § 221(e)
con - day after p. 34.5
the day no longer

Wife or spouse - 221 b - Con - day after
in - death or survivor's
Survivors of annuitant - 221 f - Con - 1st day of next month
ter - on death
MORI/CDF

This omission may be remedied, if desired, by including in the proposed amendment to section 221 an added subsection (h) reading:

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"(h) The annuity of a retired participant shall terminate on the day death or any other terminating event provided in this Act occurs. An annuity otherwise payable from the fund on or after date of enactment of this provision shall terminate (1) in the case of a retired participant, on the day death or any other terminating event occurs, or (2) in the case of a survivor, on the last day of the month before death or any other terminating event occurs."

If this change is incorporated, the language of lines 16 and 17, page 9, should be modified to read: "(1) Amend section 221 by adding two new subsections, as follows:"

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Section 2 (2) would amend the CIA plan with respect to automatic funds transfers where employees shift from coverage under another retirement system to participation in the CIA plan. Present law authorizes transfer only of the regular contributions (with interest) to an employee's credit in the other fund to the CIA fund. While the legislative background indicates an intent that there also be an attendant transfer of employer contributions made on behalf of the employee, the law itself made no provision for this.

The draft bill would permit transfer of the employer as well as employee contributions in direct shifts to CIA plan participation. Further, the draft would provide for a similar transfer of both employer and employee contributions from the CIA fund to another Government retirement system, if the employee requested such transfer when shifting directly to coverage under the other Government retirement system.

We suggest clarifying technical changes in these funds transfer provisions to specify the crediting of transferred employer and employee contributions. In line 14, page 10, insert after the word "employee", the phrase "shall be transferred to the fund,"; and in line 17, page 10, insert after the word "to", the phrase "his credit in". Similarly, in line 7, page 11, insert after the word "behalf", the phrase "may be transferred to the fund of the other system,"; and in line 9, page 11, insert after the word "to", the phrase "his credit in".

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The "Government's contributions" specified in the draft are construed for CSR System purposes to mean the agency matching contributions, equal to employee deductions, required by section 4(a) of the Retirement Act (5 U.S.C. 2252(a)) since the first pay period beginning after June 30, 1957. For CSR purposes, Government contribution amounts would be determined from the employee deductions recorded as taken during a given calendar year.

Section 2 (3) would modify the reemployment of annuitant provisions of the CIA Retirement and Disability System to model them upon the Foreign Service Retirement System concept rather than that of the CSR System.

Present CIA plan provisions require that the salary of a CIA retiree re-employed in Government be reduced by an amount equal to the CIA annuity allocable to the period of actual employment. The draft amendment would permit the CIA retiree to receive his full salary upon reemployment in the Government, plus so much of his CIA annuity, if any, which when added to reemployment salary did not exceed the amount of his CIA salary at time of retirement.

The changes in the CIA Retirement System proposed in Section 2 of the draft are acceptable to the Commission.

Section 3 of the draft bill would further amend the Federal Employees Pay Act of 1945, as amended, specifically to exempt the Central Intelligence Agency from the overtime, night, and holiday pay provisions generally applicable to Federal white-collar employees. The purpose of this amendment is to clarify the authority of the Director of Central Intelligence to deviate somewhat from the specific practices required by that act to take care of peculiar problems inherent in the operation of his agency.

Under section 8 (formerly 10) of the Central Intelligence Agency Act of 1949, as amended, the Director is given broad general authority to expend funds without regard to the laws and regulations relating to the expenditure of Government funds. Exemption of the Central Intelligence Agency from the Commission's regulations under the 1945 pay act is based on the provisions of that section. The Commission has no objection to further clarifying the administrative authority of the Director in this pay area by adding the CIA to the list of exemptions in the act.

By direction of the Commission:

Sincerely yours,

(Signed) JOHN W. MACY, JR.

Chairman